HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.15244 OF 2007

Between:

S.Narasimha Reddy

. . .Petitioner

AND

The Municipal Corporation, Nellore

. . .Respondent

:: ORDER ::

Counsel for the petitioners : Shri T.C.Krishnan

7th August, 2007

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PER G.S.SINGHVI, CJ

This petition is directed against notice dated Nil issued by Executive Authority, Nellore Municipal Corporation for recovery of property tax from the petitioner in relation to premises bearing Door No.14/426, Trunk Road, Nellore.

We have heard learned counsel for the petitioner and partly perused the record (one of us could not comprehend the record in its entirety because English translation to the vernacular documents has not been filed).

In our opinion, the writ petition is liable to be dismissed on the short ground that the petitioner has not availed the statutory remedy of appeal available under Section 282 of Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') read with Section 14 of Andhra Pradesh Municipal Corporation Act, 1994 and there is no extraordinary reason, which may warrant departure from the settled law that the High Court will not entertain writ petition under Article 226 of the Constitution of India if an effective alternative remedy is available to the aggrieved person. This rule has consistently been applied with greater vigor in matters involving assessment, levy and collection of taxes – **A.V. Venkateshwaran v. R.S. Wadhwani**[1], **Thansingh Nathmal v. Superintendent of Taxes**[2], **Baburam v. Zilla Parishad**[3], **Titaghur Paper Mills Co. Ltd. v. State of Orissa**[4], **Champa Lal v. I.T. Commissioner**[5], **J.M. & Co. v. Agricultural I.T.**

Officer, Assam[6], C.I.T. v. Ramendra Nath Ghosh[7], Swadeshi Cotton Mills Co. Ltd., v. Government of U.P.[8], Gujarat University v. N.U. Rajguru[9], State of H.P. v. Raja Mahendra Pal[10], L.L. Sudhakar Reddy v. State of A.P.[11], State of Bihar v. Jain Plastics & Chemicals Ltd.,[12], Harbanslal Sahnia v. Indian Oil Corporation Ltd.,[13], ABL International Ltd., v. Export Credit Guarantee Corporation of India Ltd.[14].

In **Harbanslal Sahnia** (supra), the Supreme Court considered the situations in which the High Court can exercise power under Article 226 of the Constitution of India notwithstanding the availability of alternative remedy and held:

> "The rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act is challenged. (See **Whirlpool Corpn. v. Registrar of Trade Marks {(1998) 8 SCC 1}**. The present case attracts applicability of the first two contingencies. Moreover, as noted, the petitioners' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings."

The petitioner's case is not covered by either of the exceptions enumerated in **Harbanslal Sahnia**'s case (supra). Therefore, we do not see any reason to entertain the writ petition.

For the reasons stated above, the writ petition is dismissed

leaving the petitioner free to avail remedy of appeal in terms of Section 282 of the Act.

As a sequel to dismissal of the main petition, WPMP No.19234 of 2004 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

7th August, 2007

C.V.NAGARJUNA REDDY, J

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[1] AIR 1961 SC 1506
[2] AIR 1964 SC 1419
[3] AIR 1969 SC 556
[4] (1983) 2 SCC 433
[5] AIR 1970 SC 645
[6] AIR 1970 SC 1980
[7] (1972) 4 SCC 379
[8] (1975) 4 SCC 378
[9] AIR 1988 SC 66
[10] (1999) 4 SCC 43
[11] (2001) 6 SCC 634
[12] (2002) 1 SCC 216
[13] (2003) 2 SCC 107
[14] (2004) 3 SCC 553